



Billing Code: 4810-AM-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

[Docket No. CFPB-2012-0023]

Disclosure of Consumer Complaint Data

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final policy statement.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing a final policy statement (Policy Statement) to provide guidance on how the Bureau plans to exercise its discretion to publicly disclose certain consumer complaint data that do not include personally identifiable information. The Bureau receives complaints from consumers under the terms of Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Policy Statement also identifies additional ways that the Bureau may disclose consumer complaint data but as to which it will conduct further study before finalizing its position.

DATES: This Policy Statement is effective on March 25, 2013.

FOR FURTHER INFORMATION CONTACT: Scott Pluta, Office of Consumer Response, Bureau of Consumer Financial Protection, at (202) 435-7306.

SUPPLEMENTARY INFORMATION:

I. Overview

A. Final Policy Statement

Under the final Policy Statement,¹ the Bureau extends its existing practices of disclosing data associated with consumer complaints about credit cards.² The Bureau plans to add to its consumer complaint public database – which contains certain fields for each unique³ complaint⁴ – complaints about other types of consumer financial products and services. The Bureau plans to continue the issuance of its own periodic reports about complaint data. To date, the Bureau has issued eight such reports.⁵ The public database will include data from certain consumer complaints submitted on or after December 1, 2011.⁶ These disclosures are intended to help provide consumers with “timely and

¹ The Bureau has issued several policy statements and requests for comment regarding its disclosure of consumer complaint data. These are: *Disclosure of Certain Credit Card Complaint Data* (Notice of proposed policy statement with request for comment), 76 FR 76628 (Dec. 8, 2011) (Proposed Credit Card Complaint Data Disclosure Policy Statement); *Disclosure of Certain Credit Card Complaint Data* (Notice of final policy statement), 77 FR 37558 (June 22, 2012) (Final Credit Card Complaint Data Disclosure Policy Statement); and *Disclosure of Consumer Complaint Data* (Notice of proposed policy statement), 77 FR 37616 (June 22, 2012) (Proposed Complaint Data Disclosure Policy Statement).

² The existing practices are described in the Final Credit Card Complaint Data Disclosure Policy Statement. To the extent there is any conflict between this Policy Statement and the Final Credit Card Complaint Data Disclosure Policy Statement, this Policy Statement controls.

³ The database will not include duplicative complaints submitted by the same consumer.

⁴ The Policy Statement concerns the Bureau’s authority to make public certain consumer complaint data that it has decided to include in the public database in its discretion. The Policy Statement does not address the Bureau’s authority or obligation to disclose additional complaint data pursuant to a request made under the Freedom of Information Act, 5 U.S.C. 522.

⁵ These are: *Annual Report of the CFPB Student Loan Ombudsman* (October 16, 2012) at http://files.consumerfinance.gov/f/201210_cfpb_Student-Loan-Ombudsman-Annual-Report.pdf; *Consumer Response: A Snapshot of Complaints Received* (October 10, 2012) at http://files.consumerfinance.gov/f/201210_cfpb_consumer_response_september-30-snapshot.pdf; *Annual Report of the Consumer Financial Protection Bureau Pursuant to Section 1017(e)(4) of the Dodd-Frank Act* (July 2012) at http://files.consumerfinance.gov/f/201207_cfpb_report_annual-to-house-appropriations-committee.pdf; *Semi-Annual Report of the Consumer Financial Protection Bureau: January 1 – June 30, 2012* (July, 2012) at http://files.consumerfinance.gov/f/201207_cfpb_Semi-Annual_Report.pdf; *Consumer Response: A Snapshot of Complaints Received* (June 19, 2012) at http://files.consumerfinance.gov/f/201206_cfpb_snapshot_complaints-received.pdf; *Consumer Response Annual Report: July 21- December 31, 2011* (March 31, 2012) at http://files.consumerfinance.gov/f/201204_cfpb_ConsumerResponseAnnualReport.pdf; *Semi-Annual Report of the Consumer Financial Protection Bureau: July 21- December 31, 2011* (January 30, 2012) at http://files.consumerfinance.gov/f/2012/01/Congressional_Report_Jan2012.pdf; and *Consumer Response Interim report on CFPB’s credit card complaint data* (November 30, 2011) at <http://files.consumerfinance.gov/f/reports/CFPB%20Consumer%20Response%20Interim%20Report%20on%20Credit%20Card%20Complaint%20Data.pdf>.

⁶ Credit card complaint data will be included from December 1, 2011. Mortgage complaint data likewise will be included from December 1, 2011, the date the Bureau began accepting such complaints. Complaint data on bank accounts and services, private student loans, and other consumer loans will be included from

understandable information to make responsible decisions about financial transactions” and to ensure that markets for consumer financial products and services “operate transparently and efficiently.”⁷

II. Background

A. Complaint System

In its Proposed Complaint Data Disclosure Policy Statement, the Bureau generally described how the Office of Consumer Response (“Consumer Response”) accepts and processes consumer complaints (collectively the “Complaint System”).⁸ That system has been refined over time, but its core processes remain the same.⁹

B. Overview of Public Comments

In its Proposed Complaint Data Disclosure Policy Statement, the Bureau proposed to extend its existing disclosure practices described in the Final Credit Card Data Disclosure Policy Statement to apply to other complaint data. The Bureau noted that the basic structure of the credit card data disclosure policy, including the public database, could be duplicated for other consumer products and services in addition to credit cards. The Bureau also observed that the purposes underlying the Final Credit Card Data Disclosure Policy Statement would apply to this extension, and the legal authority to disclose the data in the public database and in the Bureau’s own reporting is likewise the same.

March 1, 2012, the date the Bureau began accepting these types of complaints. The database will not include complaints received by the Bureau prior to the dates it began accepting those types of complaints.

⁷ 12 U.S.C. 5511(b)(1) & (5).

⁸ *Disclosure of Consumer Complaint Data* (Notice of proposed policy statement), 77 FR 37616, 37617 (June 22, 2012).

⁹ Complaints may also be subject to further investigation by Consumer Response or follow-up by other parts of the Bureau. The Complaint System is described in more detail in a number of Bureau reports, including the *Consumer Response Annual Report for 2011* (March 31, 2012) at:

http://files.consumerfinance.gov/f/201204_cfpb_ConsumerResponseAnnualReport.pdf

The Bureau received 26 unique sets of comments in response to its Notice of Proposed Complaint Data Disclosure Policy Statement. Fifteen industry groups submitted letters. One financial reform coalition submitted a single set of comments on behalf of 22 consumer, civil rights, privacy, and government groups. One mortgage provider, a financial services provider, and an online social network submitted comments. Finally, five consumers submitted comments.

Almost all comments concerned expansion of the public database component of the Proposed Complaint Data Disclosure Policy Statement. Many of these comments generally reiterated comments submitted in response to the Proposed Credit Card Complaint Disclosure Policy Statement. Industry commenters generally opposed the inclusion of additional complaint data in the public database, and reiterated opposition to the database itself. Although they endorsed the intended goals of the public database, many industry commenters asserted that the database would confuse consumers and unfairly damage the reputation of companies. Several trade associations commented that the database is contrary to the Bureau's mission to help consumers and to promote the transparency and efficiency of markets for consumer financial products and services. Some commenters specifically noted their support for the Bureau's work to help educate consumers through supplying timely and comprehensive information to make informed decisions about their financial transactions and the companies they choose to work with, but stated that complaints are best handled by the parties themselves.

The disclosure of company names in the public database was a particular focus of these comments, as was normalization or the use of some metric to provide context for data – by, for example, including information on the number of accounts a company has

for each particular product or service. Some industry commenters reiterated comments that the Bureau lacks legal authority to disclose individual-level complaint data. One commenter reiterated opposition to the database and disclosure of any complaint data, asserting that Congress intended the complaint function to ensure that the Bureau has knowledge of the consumer financial markets, not the public generally.

Consumer groups and consumers endorsed the goals underlying the public database proposal. The submission from the financial reform coalition on behalf of 22 consumer, civil rights, privacy, and government groups supported the existence and expansion of the public database, citing the data publication as a public service and a way to fulfill the Bureau's affirmative disclosure requirements under FOIA. Those groups also urged the Bureau to publicly disclose consumers' narratives and companies' response narratives. Other groups commented that the Bureau should carefully weigh privacy concerns associated with expanding the fields disclosed.

Many submissions included comments directed to the Bureau's method of processing consumer complaints, i.e., the Complaint System. To the extent that these comments also relate to the final Policy Statement, the Bureau addresses them below. To the extent that they relate only to the Complaint System and not to any associated impact on disclosure, the Bureau does not address them in this final Policy Statement. In response to such feedback, however, Consumer Response has and will continue to refine and improve its Complaint System over time.¹⁰

III. Summary of Comments Received, Bureau Response, and Resulting Policy Statement Changes

¹⁰ Consumer Response already maintains several feedback mechanisms for participants in the Complaint System and has plans to expand its feedback and customer satisfaction channels.

This section provides a summary of the comments received by subject matter. It also summarizes the Bureau's assessment of the comments by subject matter and, where applicable, describes the resulting changes that the Bureau is making in the final Policy Statement. All such changes concern the public database. There are no changes to the policy regarding the Bureau's issuance of its own complaint data reports.

A. The Policy Statement Process

Several trade associations commented that, each time the Bureau intends to add complaints to the public database about a certain type of consumer financial product or service, it should provide the opportunity to comment prior to doing so.

Consumer Response already maintains several feedback mechanisms for stakeholders, and has conducted specific outreach to companies, consumer groups, and trade associations to obtain feedback prior to beginning to accept new types of complaints (and therefore before inclusion in the public database). One trade association noted its support of the Bureau's feedback process and engagement with regulated entities. The Bureau will also delay publication of complaints about categories of products or services other than those immediately subject to this policy¹¹ until a reasonable period of time has lapsed in order to evaluate the data and consider whether any product- or service-specific policy changes are warranted. The Bureau is committed to transparency and robust engagement with the public regarding its actions. Although not required by law to do so, the Bureau solicited and received public comment on the Proposed Complaint Data Disclosure Policy Statement. The Bureau received substantial public feedback expressing a range of viewpoints, and it has carefully considered the comments received, as described in detail below including

¹¹ See note 6, *supra*.

comments specific to the expansion of the database to particular consumer financial markets. As stated in the final Policy Statement, the Bureau plans to study the effectiveness of its policy on an ongoing basis, and plans to continue to engage with the public, including regulated entities, as it assesses the efficacy of its complaint disclosure policy.¹²

B. Legal Authority for Public Database

In its Final Credit Card Data Disclosure Policy Statement, the Bureau addressed in detail several arguments related to the Bureau's authority to establish a public database. Several comments in response to the Proposed Complaint Data Disclosure Policy Statement implicate the same arguments concerning the Bureau's legal authority. For example, several trade associations reiterated claims that the public database and individual-level complaint data disclosure are inconsistent with the Freedom of Information Act (FOIA) and the Trade Secrets Act. A financial reform organization and 22 consumer groups, civil rights, privacy, and government groups specifically noted their disagreement with those comments and asserted that the Bureau not only has the authority but also may have an obligation to create the public database in order to meet its affirmative disclosure requirements under FOIA and the Bureau's own regulations. The Bureau stands by its previous statements and analysis on this issue.¹³

C. The Impact of the Public Database on Consumers

Comments from consumer groups, privacy groups, and consumers contended that the public database empowers consumers to better understand and detect instances of

¹² The Project On Government Oversight highlighted the Bureau's collaborative work to engage the public in policymaking in its recent report entitled *Highlighted Best Practices for Openness and Accountability*, featuring the Bureau as a noteworthy model that could be replicated government-wide.

¹³ *Disclosure of Certain Credit Card Complaint Data* (Notice of final policy statement), 77 FR 37558, *supra* at 37560-37561 (June 22, 2012).

unfair or deceptive practices, and identifies companies that prioritize customer service and alleviate problems up front by helping consumers avoid “bad actors.” They further asserted that the addition of data on other products and services will extend and enhance these benefits of the database. Several contended that disclosure is one of the best tools government agencies can use to improve the operation of consumer financial markets and the consumer experience. They argued that consumers can draw their own conclusions from the public database, and endorsed its accessibility and adaptable architecture. Several stated that the data do not need to be fully verified nor randomly generated to be of potential use to outside parties, and they contended that the data can serve to help consumers and advocates detect trends of unfair, deceptive, or abusive acts and practices.

Industry commenters, by contrast, mainly asserted that the publication of additional complaint data in the public database would mislead consumers because the data would be unverified, unrepresentative, lacking in context, and open to manipulation.¹⁴ In addition, several industry commenters did not appear to be aware that the Complaint System affords companies the opportunity to alert the Bureau if they are unable to verify the commercial relationship with the consumer who filed the complaint or believe the complaint was from an unauthorized third party, and that, in such circumstances, the Bureau will withhold such complaints from publication. Each of these general assertions is addressed below. Section D addresses industry comments that

¹⁴ It is worth noting that the Bureau was recently recognized by the Administrative Conference of the United States (ACUS) for agency best practices. Specifically, the Bureau received honorable mention for the ACUS Walter Gellhorn Innovation Award for the Consumer Complaint Database for the innovative and transparent use of an online searchable database to empower consumers. The award honors the degree of innovation, cost savings to the government or the public, the ease of duplicating the best practices at other agencies, and the degree to which the best practices enhance transparency and efficiency in government.

disclosure of particular data fields—company name, zip code, complaint type, and discrimination fields—would be especially inappropriate or misleading.

1. Verification

Several trade associations commented that the Bureau should not disclose unverified data. Some argued that the Bureau should only include complaints found to have contained regulatory violations. Others stated that the consumer complaints are likely to contain only unsubstantiated, inaccurate, and frivolous allegations that could mislead consumers. One industry group pointed to the existence of conflicting accounts between the company and the consumer as a reason to withhold complaints from publication. Privacy and consumer groups, on the other hand, commented that the lack of verification presented only minimal risks to companies because of controls in place to ensure that complaints must come from actual customers of that company, and furthermore that companies are given adequate time to challenge the customer/company relationship. They further contended that the benefit of making the data public is not outweighed by the “speculative harm of unverified complaints.”

The Bureau acknowledges that the Complaint System does not provide for across the board verification of claims made in complaints. On its website, the Bureau makes clear that it does “not verify the accuracy of all facts alleged in [the] complaints” contained in the public database.¹⁵ However, while the Bureau does not validate the factual allegations of complaints, it does maintain significant controls to authenticate complaints.¹⁶ Finally, as noted elsewhere in this Notice, the Bureau believes that the

¹⁵ Consumer Financial Protection Bureau, Consumer Complaint Database, available at <http://www.consumerfinance.gov/complaintdatabase/>.

¹⁶ *Disclosure of Certain Credit Card Complaint Data* (Notice of Final Policy Statement), 77 FR 37558, *supra* at 37561-37652 (June 22, 2012).

information has value to the public and that the marketplace of ideas will determine what the data show.

2. Representativeness

Several trade associations reiterated previously submitted comments that it is inappropriate for the Bureau to publish data that is not randomly sourced. Non-random complaints, they contended again, cannot provide consumers with useful information. In contrast, one consumer group noted that the data need not be random to be of use in identifying trends and providing consumers with a valuable educational tool.

The latter view finds support in analyses of the database conducted by independent researchers. For example, one report notes the database's potential for assisting companies in decreasing risk and cost, increasing customer service, and identifying best practices that allow companies to address problems before they become complaints by comparing the Bureau's complaint data, social media data, and companies' own internal records.¹⁷ Another independent researcher who examined the public database in September 2012 concluded that, "the CFPB credit card complaint database provides clear, reliable and valid information for banks about their credit card practices."¹⁸

¹⁷ *Beyond the Arc Analyzes CFPB Complaint Data to Enhance Customer Experience: Analytics firm leverages complaint data to guide financial institutions in best practices for customer experience efforts*, Business Wire Jan. 31, 2013, available at

<http://www.businesswire.com/news/home/20130131006068/en/Arc-Analyzes-CFPB-> (noting that the analysis of the CFPB database can help companies to detect regulatory risks and address them before potential for enforcement action, identify customer pain points to improve the customer experience and improve retention, and view competitors' strengths and weaknesses to help drive acquisition).

¹⁸ B. Hayes, *The Reliability and Validity of the Consumer Financial Protection Bureau (CFPB) Complaint Database*, Business Over Broadway (Sept. 19, 2012). ("The frequency of different types of complaints are fairly stable over time. Additionally, the normative CFPB complaint scores are related to credit card customer satisfaction ratings (from an independent source); banks with better complaint scores (lower

Industry comments on representativeness also recognized that the Bureau is expressly authorized to use complaint data to set priorities in its supervision process. Some industry comments also recognized that the data could play a role with respect to other statutory obligations, such as fair lending enforcement or market monitoring. If complaint data can provide the Bureau with meaningful information, then logically they may also prove useful to consumers and other reviewers. If the data lacked such potential, Congress would not have pointed to complaints as a basis to inform important Bureau priorities.¹⁹ Furthermore, companies have told Consumer Response on numerous occasions that they learn valuable information from consumer complaints. If the data inform companies, they have the potential to inform consumers as well.

3. Context

Several trade associations commented that Bureau disclaimers about the lack of verification or representativeness will not effectively warn consumers about the limitations of the public database. The associations expressed concern that consumers and the media will inevitably see or portray the information as being endorsed by the Bureau, notwithstanding the Bureau's disclaimers. In addition, one trade group commented that the marketplace of ideas cannot prevent consumers from being misled by the public database. Another commented that the database fails to distinguish complaints of major and minor significance or those based on confusion about a

number of complaints) receive higher satisfaction ratings compared to banks with poor complaint scores (higher number of complaints).”) (available at <http://businessoverbroadway.com/the-reliability-and-validity-of-the-consumer-financial-protection-bureau-cfpb-complaint-database>).

¹⁹ See 12 U.S.C. 5493(b)(3)(D).

regulatory requirement from those asserting a regulatory violation, and that, without that context, the data are open to misinterpretation.

One trade association suggested language for a new disclaimer, including statements that there are no attempts to verify the accuracy of any aspect of the complaint and that one should not draw any conclusion about any financial product or service, or any company mentioned. Given the various authentication measures used by the Bureau and the clear indication from – among others – Congress, companies themselves, and outside researchers that the data are informative, the Bureau has decided not to adopt this suggested language.

Some trade associations did not seem to be familiar with the additional context that the Bureau already provides to consumers and reviewers, asserting that the Bureau does not encourage consumers to view the Bureau’s aggregate data reports and that the database does not provide the public with the date that it was last updated. On the consumer complaint database webpage, in addition to tutorials on how to use the data tool and a description of how the Bureau processes complaints, the Bureau maintains a section on its affirmative reports of data findings and provides links to copies of each of the documents.²⁰ Each time the data is displayed in the database, the “about” section provides those viewing the data with the date the Bureau last updated the contents.²¹

The Bureau acknowledges the possibility that some consumers may draw (or be led to) erroneous conclusions from the data. That is true, however, for any market data. In addition, the Bureau’s two-part disclosure policy—first, its own affirmative reports of data findings that it believes may inform consumers, and second, a public database that

²⁰ <http://www.consumerfinance.gov/complaintdatabase/>

²¹ <https://data.consumerfinance.gov/dataset/Credit-Card-Complaints/25ei-6bcr#About>.

researchers and others can mine for possible data trends—is intended to minimize any consumer confusion about the scope of the Bureau’s own conclusions with respect to the complaint data. The Bureau is open, however, to further suggestions from trade associations, companies, and other concerned stakeholders on how best to provide additional context for the public database.

4. Normalization

The Bureau notes the general acceptance by consumer and industry groups that normalization can improve data utility. Thus, although trade associations uniformly reiterated their opposition to the release of company names in the public database, many recognized the importance of normalizing the data that the Bureau decides to release.

One trade association suggested that normalization be addressed by the provision of independently verified data on the number of customer contacts on an annual basis, with the inclusion of an extra data field providing a proportion of complaints to contacts. Other commenters suggested including indications of scale, number of transactions or accounts, portfolio size, and information on closed or unopened accounts. Several groups and associations also noted that the database should provide the functionality to break down the data by types of products and services. The database does provide the ability to filter by product or service, and will continue to feature this function.

The Bureau agrees with commenters that, if possible, normalization should account, for example, for closed accounts with a balance and declined loan applications because these are additional contacts with the consumer and may be the

subject of complaints. One trade association noted that additional time to prepare a proposal on normalization would be helpful. The Bureau intends to work further with commenters and other interested stakeholders on specific normalization approaches, and welcomes further operational suggestions on the point.

5. Manipulation

Several trade associations reiterated comments that third parties like debt negotiation companies could use complaint filing as a strategic tool to aid their clients. One trade association again commented that outside parties may artificially inflate complaint counts for litigation purposes. Several trade associations also repeated claims that one outside party has submitted numerous fraud complaints about a single merchant, allegedly for improper purposes.

The Complaint System has a number of protections against manipulation. For example, the burden of submitting a complaint is not negligible. Consumers must affirm that the information is true to the best of their knowledge and belief. The consumer is asked for a verifiable account number for account-based services. If none is provided (or available) and the consumer is unable to produce verifiable documentation of the relationship with the provider (such as a statement or receipt), the complaint is not pursued further. As described further below, when a company offers a reasonable basis to challenge its identification in a complaint, the Bureau does not post the relevant complaint to the public database unless and until the correct company is identified. Furthermore, the Bureau takes steps to consolidate duplicate complaints from the same consumer into a single complaint.

The Bureau maintains additional controls after complaints are submitted and companies are able to alert the Bureau to any suspected manipulation. Companies have the ability to provide feedback to the Bureau if they believe they are not the correct entity about which the consumer is complaining. In addition, companies can provide feedback to the Bureau about complaints they believe were not submitted by an authorized consumer or his or her representative. The Bureau may also intervene to clarify ambiguities if it observes anomalies in mass complaint submissions. As detailed in the final Policy Statement, where the company provides feedback that they are unable to verify the commercial relationship with the consumer who filed the complaint, the complaint will not be published in the database. If companies find this combined package of controls insufficient in practice, the Bureau is open to suggestions for addressing identifiable problems.

D. The Impact of Specific Public Database Fields on Consumers and Companies

1. Company Names

Consumer groups commented that the disclosure of company names represents a significant aspect of the Bureau's policy. They noted that other complaint databases that disclose the identity of specific companies in other industries have created pressure on companies to improve whatever metrics are measured by the public database. As a result, these groups expect the Bureau's public database to cause companies to compete more effectively on customer service and product quality. Together with privacy and open government groups, consumer groups contended that outside groups can use the company data to help consumers make more informed decisions.

Industry groups disagreed that disclosing company names serves these or any policy purposes. They reiterated previous comments that this form of disclosure would unfairly damage companies' reputation and competitive position. One trade association indicated that the inclusion of company names could implicate safety and soundness concerns, particularly in light of viral media. Several noted that the public database would not take account of the size and nature of the portfolio of different companies, which would cause consumer confusion. Others commented that company names should be reported as the parent company in order to avoid consumer confusion about the various ways companies with decentralized systems would show up in the database. Several industry groups also noted concerns over how a company acquired by another company would be displayed in the database. One trade association expressed a concern that disclosure of complaint data related to debt collection could be noncompliant with the Fair Debt Collection Practices Act, and suggested de-identification of company and consumer information related to such complaints.

Trade groups asserted that if company names are to be included, they should be verified. Several noted that consumers would be particularly likely to name the merchant or other partner in connection with pre-paid cards, and not the actual issuer. Some noted that account numbers would not be sufficient for verification because the system will accept complaints without an account number and some complaints—like declined application complaints—will arise even when there is no account number.

The Bureau believes that industry comments fail to acknowledge the system controls that are in place to verify that a complaint is from an actual customer of the company and that the company is properly identified. If a consumer contacts the Bureau

solely with an inquiry, it will not be recorded as a complaint and therefore not published in the database. Companies have the ability to notify the Bureau if they cannot take action because the complaint is not related to the company. No company will be associated with a complaint if it demonstrates a reasonable basis to challenge a commercial relationship with the consumer. Currently, the Complaint System provides companies 15 days to challenge company identification, a time period which experience has shown to be sufficient.²² As noted earlier, there are also system controls, including controls available to companies, designed to (i) identify and prevent publication of duplicate complaints from the same consumer, and (ii) to prevent other efforts to manipulate the Complaint System.

For many complaints, account numbers provide a reliable method to verify the identity of the company. The Bureau acknowledges that some complaints may identify the company as the merchant or, for example, another partner. In such cases, the account number provided will not match the name provided. To prevent this, the Bureau can confirm the account number and other descriptive information with the consumer, and then substitute the name of the correct company. The merchant or other partners are not named. The Bureau also recognizes that there are cases in which no account number is available to the consumer, such as when credit applications are declined, or when the complaints involve services that are not tied to accounts. In these cases, the Bureau works directly with the consumer to identify the correct company

²² Several commenters seemed to misunderstand the 15- and 60- day company response windows. The CFPB requests that companies respond to complaints within 15 calendar days. If a complaint cannot be closed within 15 calendar days, a company may indicate that its work on the complaint is “In progress” and provide a final response within 60 calendar days. Company responses include descriptions of steps taken or that will be taken, communications received from the consumer, any follow-up actions or planned follow-up actions, and categorization of the response.

from correspondence or other communications provided by or received from the company. If the correct company cannot be identified in this manner, the complaint will be closed and no data will be added to the public database.

The Bureau acknowledges, as it did in the Proposed Complaint Data Disclosure Policy Statement, that there are significantly varying views among stakeholders about whether consumer and company provided data is useful to consumers. However, the Bureau continues to believe that this disclosure may allow researchers to inform consumers about potentially significant trends and patterns in the data. In addition, given that companies have made competitive use of this and other public databases, the Bureau anticipates these disclosures have the potential to sharpen competition over product quality and customer service.

Furthermore, as several trade associations conceded and as previously noted above, Congress itself recognized that the Bureau may properly use consumer complaint data to set supervision, enforcement, and market monitoring priorities.²³ If the Bureau is able to use complaint data in this way, there is good reason to allow consumers and outside researchers to weigh the importance of complaint data in their own research, analysis, and decision-making. Outside review of this kind will also help ensure that the Bureau remains accountable for addressing the complaints that it receives.

Finally, any privacy issues related to the Fair Debt Collection Practices Act will be considered and addressed when the Bureau begins accepting complaints about debt collection companies and considers disclosing related complaint data. Any issues raised with respect to processing of pre-paid cards, or other products and services about which

²³ See, e.g., 12 U.S.C. 5493(b)(3)(D).

the Bureau does not yet accept complaints, will be considered and addressed when the Bureau begins accepting such complaints and considers disclosing related complaint data. As stated in the final Policy Statement, the Bureau plans to study the effectiveness of its policy on an ongoing basis, and plans to continue to engage with the public, including regulated entities, as it assesses the efficacy of its complaint disclosure policy and retains the ability to make adjustments as needed when addressing the concerns of particular financial markets.

2. Zip Codes

Consumer groups commented that the Bureau should add additional location fields, such as city and census tract level data. Several trade associations, however, commented that zip code disclosure creates risks to privacy because zip codes can be combined with other data to identify consumers, particularly in sparsely populated rural zip codes and with respect to particular types of products, and suggested disclosing only the state. Trade associations also commented that zip code data may be misunderstood to imply discriminatory conduct, leading to unfounded allegations of discrimination.

The Bureau is mindful of the potential privacy implications of zip code disclosure. For the time being, and pending additional study, it will limit zip code disclosures to five digits, even if a consumer provides the full nine-digit zip code. Furthermore, as it analyzes the potential for narrative disclosure, the Bureau will consider the impact of zip code disclosures in assessing privacy risks. The Bureau will also analyze whether there are ways to disclose more granular location fields without creating privacy risks, as suggested by some commenters.

4. Discrimination

Consumer groups and trade associations mainly reiterated comments made in response to the Credit Card Data Proposed Policy Statement. Consumer groups generally favored the inclusion of the data, and industry groups commented that it should remain excluded. One trade association suggested eliminating the field from the complaint intake forms altogether, citing a lack of meaningful data and evidence of value in its collection. Some consumer groups, however, suggested that the Bureau request protected class information to assist in the detection of patterns and practices of lending and credit discrimination, and provide an explanation to consumers as to the value in collecting such information.

The Bureau is continuing to refine its methods for identifying discrimination allegations in complaints submitted by consumers. Accordingly, the Bureau does not plan to disclose discrimination field data in the public database at this time. In the interim, the Bureau will continue to study the conditions, if any, necessary for the appropriate disclosure of such information at the individual complaint level. The Bureau may also report discrimination allegation data at aggregated levels in its own periodic complaint data reports.

5. Type of Issue

Trade and consumer groups reiterated comments that the Bureau could improve this data field in several respects, including allowing a consumer to be able to select several issues for a given complaint. Several trade associations also repeated previous comments that the Bureau should not rely on consumers for this data point, and should allow companies to categorize the complaint data. The Bureau has worked to improve these categories, expanding the fields to include both a product and sub-product and, in

some cases, an issue and sub-issue that the consumer can select. The Bureau stands by its previous statements and analysis on this issue.²⁴

The Bureau is working to develop the required functionality for a consumer to be able to “tag” a complaint as implicating more than one issue. In addition, the Bureau is weighing possible improvements to the issue categories and is considering the extent to which Bureau staff should “tag” complaints as raising certain issues. The Bureau welcomes further input from stakeholders on how to further improve the issue categories.

6. Company Disposition

Consumer groups reiterated comments on the need to include additional data about the company’s response, including narratives accompanying the disposition code and the date of the company response.²⁵ Trade associations noted that response categories such as “Closed” and “Closed with explanation” could have negative connotations, and one suggested adding an additional category of “closed with no relief required.” Another industry group suggesting distinguishing company response categories according to the type of company and product involved in the complaint.

The Bureau believes the changes previously made in response to industry concerns regarding the Complaint Systems’ company response categories address the negative connotation concerns.²⁶ In addition, creating additional company response categories for each product or service would deprive reviewers of the ability to compare

²⁴ *Disclosure of Certain Credit Card Complaint Data* (Notice of final policy statement), 77 FR 37558, *supra* at 37565 (June 22, 2012).

²⁵ Specific comments on disclosure of company narratives are addressed in section E.2, and comments on date fields are addressed in section D.6 below.

²⁶ Consumer Response has provided detailed guidance to institutions participating in the Complaint System regarding these changes. Institutions can rely on the summary description provided herein in addition to more specific operational instructions.

responses across products and services. The Bureau stands by its previous statements and analysis on this issue.²⁷

7. Date Fields

Finally, the Bureau agrees with the commenters who argued for the inclusion of additional dates in the public database such as the date of the company's response and the consumer's assessment of that response, so that a user of the public database would know how fast complaints are processed. The Bureau includes the date that a complaint is sent to the Bureau and the date that the Bureau forwards it to the relevant company.²⁸ The Bureau is currently developing the technical ability to publish other date fields, including the date that a company responds. When this is feasible, the Bureau plans to include additional date fields in the public database.

E. Potential Impacts of Undisclosed Fields

The Bureau received a number of comments about data fields that the Proposed Complaint Data Disclosure Policy Statement did not list for disclosure in the public database, including consumer and company response narratives. The Bureau is not shifting any of these fields into the disclosed category in the final Policy Statement, although several fields remain under assessment for potential inclusion at a later date.

1. Consumer Narratives

The issue of disclosing consumer narratives generated the most comments. Consumer, civil rights, open government, and privacy groups uniformly supported

²⁷ *Disclosure of Certain Credit Card Complaint Data* (Notice of final policy statement), 77 FR 37558, *supra* at 37565 (June 22, 2012).

²⁸ There may be a lag between the two dates in part because, as noted above, consumers do not always submit complaints with sufficient information. In addition, some complaints are received via channels that trigger additional processing and data entry steps by the Bureau. For example, a complaint submitted via the web complaint form will move to the appropriate company faster than a hard-copy complaint referred by another agency that must be input into the Bureau's system.

disclosure on the grounds that it would provide consumers with more useful information on which to base financial decisions and would allow reviewers to assess the validity of the complaint. These groups also noted the potential for the narrative data to reduce perceived risk of reputational harm by providing context to the complaints, and submitted a proposal that would allow the consumer to submit a complaint without the collection of confidential personal information in the complaint description. Their proposal would also provide a consumer the chance to opt out of narrative disclosure in the public database, in whole or in part.

Trade groups and industry commenters nearly uniformly opposed disclosure of consumer narratives, reiterating comments made in response to the Bureau's Proposed Credit Card Data Disclosure Policy Statement. Several suggested that if the Bureau resolved to disclose narratives, it might inadvertently disclose personally identifiable information, with potentially significant consequences to the affected individuals. These commenters also argued that narrative disclosure might undermine the Bureau's mission to the extent that consumers, fearing potential disclosure of their personal financial information, would become reluctant to submit complaints. One trade association commented that the Bureau should consider the potential benefit of including both the consumer's narrative description and the company's narrative response.

While acknowledging the general lack of consensus in this area, the Bureau notes that almost all commenters – in response to both the Proposed Credit Card Complaint Data Disclosure Policy Statement and the recently Proposed Consumer Complaint Data Disclosure Policy Statement – agreed that the privacy risks of narrative disclosure must be carefully addressed if narrative disclosure is to take place. Accordingly, the Bureau

will not publish narrative data until such time as the privacy risks of doing so have been carefully and fully addressed. In addition to assessing the feasibility of redacting personally identifiable information (“PII”) and narrative information that could be used for re-identification, by algorithmic and/or manual methods, the Bureau will carefully consider whether there are ways to give submitting consumers a meaningful choice of narrative disclosure options.

2. Responsive Company Narratives

Consumer groups argued that companies should have the same ability as consumers to offer their responsive narratives for either public disclosure or private communication to the consumer. According to these commenters, this mechanism would protect consumer privacy, allow for effective communication between consumers and companies, and permit companies to respond publicly to public complaint narratives. Most trade associations disagreed, reiterating arguments that the Gramm-Leach-Bliley Act prohibits them from publicly disclosing any PII about their customers.

Trade associations and a financial services provider suggested that the Bureau should consider the potential benefit of including the company’s response. Company responses, they noted, could provide balance by incorporating important details regarding the nature and resolution of the complaints. In light of the Bureau’s current disclosure position on consumer narratives, however, the Bureau is not resolving this issue at this point.

F. Addition of New Data Fields

Several consumer groups asked the Bureau to add new data fields for collection and disclosure via the public database, including the ability to further define issue categories, noting that additional detail would make the database even more valuable as

a pre-purchase educational tool. One group suggested that the database identify the commercial name of the individual financial product or service, not the company or product category alone. As noted, several groups urged that location data be provided at the city or census tract level to help identify discriminatory practices. To that same end, several groups urged the collection of demographic data on a voluntary basis.

The Bureau discloses the product category (e.g., mortgage), and will now include additional information about the sub-product (e.g., reverse mortgage) that the consumer identifies. The Bureau will continue to evaluate the usefulness and benefit that additional fields may provide as it begins to accept complaints for additional types of consumer financial products or services. The Bureau is open to the inclusion of additional data fields and will continue to work with external stakeholders to address the value of adding such fields.

G. Posting Data for Complaints Submitted To Other Regulators

One consumer group commented that the public database should include data on complaints that the Bureau forwards to other agencies. This group also commented that the Bureau should encourage other agencies to submit complaints to the Bureau's public database.²⁹ Several trade associations expressed concerns about the publication of complaint data from other regulators, noting that complaints should simply be forwarded to the appropriate prudential regulator if not within the purview of the Bureau and not included in the database.

The Bureau agrees that the utility of the public database would be improved by the inclusion of as many complaint records as possible. As a result, it is open to other

²⁹ Along the same lines, one trade group objected to the disclosure of company names in part because the Bureau's database would only include complaints against larger financial institutions.

regulators providing parallel complaint data for inclusion in the public database. Until that can be achieved, however, the Bureau does not believe it would be that useful to include referred complaints in the public database. The Bureau would not be able to verify a commercial relationship, nor describe how and when a company responded to a referred complaint, or whether the consumer accepted or disputed the outcome.

IV. Final Policy Statement

The text of the final Policy Statement is as follows:

1. Purposes of Consumer Complaint Data Disclosure

The Bureau receives complaints from consumers about consumer financial products and services. The Bureau intends to disclose certain information about such consumer complaints in a public database and in the Bureau's own periodic reports.

The purpose of this disclosure is to provide consumers with timely and understandable information about consumer financial products and services and to improve the functioning of the consumer financial markets for such products and services. By enabling more informed decisions about the use of consumer financial products and services, the Bureau intends for its complaint data disclosures to improve the transparency and efficiency of such consumer financial markets.

2. Public Access to Data Fields

Data from complaints that consumers submit will be uploaded to a publicly accessible database, as described below.

a. Complaints Included in the Public Database

To be included in the public database, complaints must: (a) not be duplicative of another complaint at the Bureau from the same consumer; (b) not be a whistleblower

complaint; (c) involve a consumer financial product or service within the scope of the Bureau's jurisdiction; and (d) be submitted by a consumer (or his or her authorized representative) with an authenticated commercial relationship with the identified company. The public database will include data from certain consumer complaints submitted on or after December 1, 2011.³⁰ In addition, when the Bureau begins to accept complaints for a type of consumer financial product or service other than those immediately subject to this policy, the Bureau will delay publication of such complaints until a reasonable period of time has lapsed in order to evaluate the data and consider whether any product- or service-specific policy changes are warranted.

b. Fields Included in the Public Database

For included complaints, the Bureau will upload to the public database certain non-narrative fields that do not call for PII. The Bureau plans to include the following fields:

- (i) Bureau-assigned unique ID number;
- (ii) Channel of submission to Bureau;
- (iii) Date of submission to Bureau;
- (iv) Consumer's 5-digit zip code;
- (v) Product or service;
- (vi) Sub-product;
- (vii) Issue;
- (viii) Date of submission to company;

³⁰ Credit card complaint data will be included from December 1, 2011. Mortgage complaint data likewise will be included from December 1, 2011, the date the Bureau began accepting such complaints. Complaint data on bank accounts and services, private student loans, and other consumer loans will be included from March 1, 2012, the date the Bureau began accepting these types of complaints.

- (ix) Company name;
- (x) Company response category;
- (xi) Whether the company response was timely; and
- (xii) Whether the consumer disputed the response.³¹

The consumer generates data for fields (iv), (v), (vi), (vii), and (xii). The Bureau will authenticate the consumer's identification of the relevant company in field (ix), and finalize the entry in that field as appropriate.³² If a company demonstrates by the 15-day deadline that it has been wrongly identified, no data for that complaint will be posted unless and until the correct company is identified. At the 15-day mark, however, the Bureau will post the complaint data with the originally identified company in field (ix) so long as the Bureau has account number or documentary data to support the identification. If the Bureau cannot reasonably identify the company, however, the complaint will be closed without posting to the public database.

The complaint system automatically populates the two date fields, (iii) and (viii). The Bureau completes fields (i), (ii), and (xi).³³ The company completes field (x). If it selects "Closed with monetary relief" for field (x), the company will also enter the amount of monetary relief provided, although information as to amounts will not be

³¹ Additional fields remain under consideration for potential inclusion. For example, the Bureau may add a sub-issue field.

³² The consumer's account number generally will enable authentication of the correct company for account-based services. If an account number is not applicable or available, the Bureau works directly with the consumer to identify the correct company from company correspondence such as statements or letters. If the correct company cannot be identified in this manner, no data is posted to the database. Account numbers will never become part of the public database.

³³ If a response is untimely, at either the 15- or 60-day mark, field (xi) will show that the company did not respond on a timely basis. The company's substantive response, if it eventually makes one, will still be shown in field (x), but the untimeliness entry will remain.

included in the public database.³⁴ Field (x) will show as “In progress” if the company responds within 15 days indicating additional time is needed (up to 60 calendar days). The company’s later response will then overwrite the “In progress” data entry. If no response is provided within 60 days, the field will be updated accordingly and updated as untimely.

c. When Data Is Included in the Public Database

The Bureau will generally add field data to the public database for a given complaint within 15 days of forwarding the complaint to the company in question. If the company responds “Closed with monetary relief,” “Closed with non-monetary relief,” “Closed with explanation,” “Closed,” or “In progress” before the 15-day deadline for response, the Bureau will then post applicable data for that complaint to the public database. If the company fails to respond at all by the 15-day deadline, the Bureau will also post data for that complaint at that point. In such case, the company response category field will be blank and the “Untimely Response” field will be marked. As noted above, if a company demonstrates by the 15-day deadline that it has been wrongly identified, no data for that complaint will be posted unless and until the correct company is identified. Once the Bureau discloses some data for a given complaint, it will add to the public database any new complaint data that are subject to disclosure as they become available. Subject to these various restrictions, data will be posted to the public database on a daily basis.

³⁴ The Bureau is not planning to disclose the consumer’s claimed amount of monetary loss and, as a result, believes it would be inappropriate to disclose, in the individual case, the amount of relief provided by the company. The Bureau, however, may include non- individual data on monetary relief in its own periodic reports. The Bureau has determined not to include the consumer’s claimed amount of monetary relief because a review of complaints shows that consumers have had difficulty stating the amount and prefer to provide a narrative description of the relief that they believe to be appropriate.

d. Public Access

A public platform for the public database will enable user-defined searches of the posted field data. Each complaint will be linked with a unique identifier, enabling reviewers to aggregate the data as they choose, including by complaint type, company, location, date, or any combination of variables. The data platform will also enable users to save and disseminate their data aggregations. These aggregations can be automatically updated as the public database expands to include more complaints. Finally, users will be able to download the data or analyze it via an Application Programming Interface.

e. Excluded Fields

The public database will not include PII fields such as a consumer's name, account number, or address information other than a 5-digit zip code. At least until it can conduct sufficient further study and install satisfactory controls, the Bureau will not post to the public database the consumer's narrative description of "what happened," his or her description of a "fair resolution," or his or her reason for disputing the company's response, if applicable. The Bureau also will not post a company's narrative response. The Bureau intends to study the potential inclusion of narrative fields as described further in section 4 of this Policy Statement.

3. Regular Bureau Reporting on Complaints

At periodic intervals, the Bureau intends to publish reports about complaint data, which may contain its own analysis of patterns or trends that it identifies in the complaint data. To date, the Bureau has published eight reports containing aggregate complaint data.³⁵

³⁵ See note 5, *supra*.

The Bureau intends for its reporting to provide information that will be valuable to consumers and other market participants. Before determining what reports to issue beyond those relating to its own handling of complaints, the Bureau will study the volume and content of complaints that it has received in a given reporting period for patterns or trends that it is able to discern from the data. If the data will support it, the Bureau intends for its reports to include certain standardized metrics that would provide comparisons across reporting periods. The reports will also describe the Bureau's use of complaint data across the range of its statutory authorities during a reporting period. Because monetary relief data will not be included in the individual-level public database, the Bureau anticipates such data will be included at non-individual levels in its own periodic reporting.

4. Matters for Further Study

Going forward, the Bureau intends to study the effectiveness of its consumer complaint disclosure policy in realizing its stated purposes, and plans to continue to engage with the public, including regulated entities, as it makes these assessments. The Bureau will also analyze options for normalization, and welcomes further input from stakeholders on how to implement such metrics. In addition, the Bureau will assess whether there are practical ways to disclose narrative data submitted by consumers and companies in a manner that will improve consumer understanding without undermining privacy interests or the effectiveness of the consumer complaint process, and without creating unwarranted reputational injury to companies.

5. Effect of Policy Statement

This Policy Statement is intended to provide guidance regarding the Bureau's exercise of discretion to publicly disclose certain data derived from consumer complaints. The Policy Statement does not create or confer any substantive or procedural rights on third parties that could be enforceable in any administrative or civil proceeding.

AUTHORITY: 12 U.S.C. 5492(a), 5493(b)(3), 5496(c)(4), 5511(b)(1), (5), and (c)(3), 5512(c)(3)(B).

Dated: March 25, 2013.

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[FR Doc. 2013-07569 Filed 04/09/2013 at 8:45 am; Publication Date: 04/10/2013]